

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
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CHAPTER 177

HOUSE BILL 2169

AN ACT

AMENDING TITLE 28, CHAPTER 7, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-2065; AMENDING SECTIONS 28-2094, 28-2133 AND 28-6991, ARIZONA REVISED STATUTES; AMENDING LAWS 2001, CHAPTER 325, SECTION 18; RELATING TO VEHICLE TITLE AND REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 7, article 2, Arizona Revised Statutes,
3 is amended by adding section 28-2065, to read:

4 28-2065. Electronic and digital signatures; documents;
5 acceptance

6 A. ON OR BEFORE JANUARY 1, 2009, THE DIRECTOR IN COOPERATION WITH A
7 STATEWIDE ASSOCIATION OF FRANCHISED NEW MOTOR VEHICLE DEALERS SHALL ESTABLISH
8 A SCHEDULE TO DEVELOP A PILOT PROGRAM TO ACCEPT AND USE ELECTRONIC OR DIGITAL
9 SIGNATURES.

10 B. IN THE PROCESS OF DEVELOPING THE PILOT PROGRAM, THE DIRECTOR SHALL
11 RESEARCH AND DEVELOP METHODS TO ALLOW THE DEPARTMENT, AUTHORIZED THIRD
12 PARTIES, LICENSED FINANCIAL INSTITUTIONS, LICENSED INSURERS OR ANY OTHER
13 BUSINESS OR INDIVIDUAL AS DETERMINED BY THE DIRECTOR TO ACCEPT, EXCHANGE AND
14 USE ELECTRONIC OR DIGITAL SIGNATURES FOR ANY DOCUMENT OR FOR ANY TRANSACTION
15 PRESCRIBED IN THIS CHAPTER AND SECTIONS 28-370, 28-444, 28-453 AND 28-5111.

16 C. THE PARTICIPANTS SHALL ENSURE THAT ADEQUATE SECURITY MEASURES ARE
17 IN PLACE TO PREVENT ANY ILLEGAL USE OF THE SIGNATURES OR OTHER INFORMATION
18 EXCHANGED PURSUANT TO THIS SECTION.

19 D. EXCEPT FOR A STATEWIDE ASSOCIATION OF FRANCHISED NEW MOTOR VEHICLE
20 DEALERS, THE DIRECTOR MAY LIMIT THE NUMBER OF PARTICIPANTS IN THE SYSTEM BUT
21 SHALL ENCOURAGE AUTHORIZED THIRD PARTIES AND BUSINESSES OF VARIOUS SIZES TO
22 PARTICIPATE.

23 E. AFTER THE SYSTEM HAS BEEN OPERATING FOR TWELVE MONTHS, THE DIRECTOR
24 MAY EXPAND THE SYSTEM IF THE DIRECTOR DETERMINES THE SYSTEM IS SUCCESSFUL.

25 F. THE DIRECTOR MAY DETERMINE AND REQUIRE REIMBURSEMENT FROM PILOT
26 PROGRAM PARTICIPANTS FOR COSTS RELATED TO COMPUTER PROGRAMMING, HARDWARE,
27 DEVELOPMENT AND PERSONNEL. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO
28 SECTIONS 35-146 AND 35-147, ALL MONIES RECEIVED PURSUANT TO THIS SECTION IN A
29 SEPARATE ACCOUNT OF THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991.
30 MONIES IN THE SEPARATE ACCOUNT ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR
31 MAY TRANSFER MONIES DEPOSITED PURSUANT TO THIS SUBSECTION FROM THE SEPARATE
32 ACCOUNT TO THE OPERATING BUDGET OF THE DEPARTMENT'S MOTOR VEHICLE DIVISION
33 FOR THE PURPOSE OF REIMBURSING THE DEPARTMENT'S OPERATING BUDGET FOR
34 EXPENDITURES MADE BY THE DIVISION PURSUANT TO THIS SECTION.

35 G. THIS SECTION DOES NOT LIMIT THE USE OF ELECTRONIC AND DIGITAL
36 SIGNATURES USED BY STATE AGENCIES, BOARDS OR COMMISSIONS PURSUANT TO SECTION
37 41-132.

38 H. THE DIRECTOR SHALL ADOPT POLICIES NECESSARY TO IMPLEMENT THIS
39 SECTION.

40 Sec. 2. Section 28-2094, Arizona Revised Statutes, is amended to read:

41 28-2094. Dismantling motor vehicle; application fee;
42 certificate of title; electronic title system;
43 exemption

44 A. An owner who sells a motor vehicle, trailer or semitrailer as scrap
45 or for dismantling or destroying shall assign the certificate of title of the

1 vehicle to the purchaser. The purchaser shall deliver the following to the
2 department:

- 3 1. An application for a dismantle certificate of title to scrap,
4 dismantle or destroy the vehicle.
- 5 2. The certificate of title to the vehicle purchased.
- 6 3. The registration card of the vehicle.
- 7 4. The license plate of the vehicle, if any.
- 8 5. A fee of four dollars.

9 B. EXCEPT AS PROVIDED IN SUBSECTION G, an owner who intends or desires
10 to dismantle a vehicle shall first forward all of the following to the
11 department:

- 12 1. An application for a dismantle certificate of title to dismantle or
13 wreck the vehicle.
- 14 2. The certificate of title to the vehicle.
- 15 3. The registration card of the vehicle.
- 16 4. The license plate of the vehicle, if any.
- 17 5. A fee of four dollars.

18 C. If the registration card or license plate is lost or destroyed, the
19 applicant shall state in a form prescribed by the department under penalty of
20 perjury the circumstances of the loss or destruction. EXCEPT AS PROVIDED IN
21 SUBSECTION G, on receipt of the documents and fee required by this section,
22 the department shall issue a dismantle certificate of title to the applicant
23 to dismantle or destroy the vehicle. The dismantle certificate of title
24 authorizes the person to transport or possess the vehicle or to transfer
25 ownership by endorsement on the dismantle certificate of title. The
26 department shall not issue a certificate of title for the vehicle if it is
27 dismantled or destroyed.

28 D. EXCEPT AS PROVIDED IN SUBSECTION G, a licensed automotive recycler
29 who files with the application for a dismantle certificate of title under
30 this section an Arizona certificate of title indicating that the vehicle is
31 free of all liens or a valid release of any liens shown on the title may
32 begin dismantling the vehicle five days after mailing or three days after
33 delivery of the required documents and fee to the department unless notified
34 by the department of the claim of lien or interest in the vehicle by some
35 other person. If the department sends this notice, the licensed automotive
36 recycler shall cease dismantling or sale of the vehicle and any of its parts
37 until the rights of the other person are determined.

38 E. A licensed automotive recycler may dismantle a vehicle without
39 obtaining a dismantle certificate of title in the licensed automotive
40 recycler's name if the vehicle has previously been issued a dismantle
41 certificate of title, a salvage certificate of title or a nonrepairable
42 vehicle certificate of title. The dismantle certificate of title, salvage
43 certificate of title or nonrepairable vehicle certificate of title must be
44 the current title of record. EXCEPT AS PROVIDED IN SUBSECTION G, an
45 automotive recycler shall file a written request to dismantle the vehicle in

1 a form prescribed by the department. The automotive recycler may begin
2 dismantling the vehicle after COMPLETING THE REQUIREMENTS IMPOSED BY THE
3 DEPARTMENT PURSUANT TO SUBSECTION G OR AFTER mailing or delivering the
4 request. If the department notifies the automotive recycler of a claim of
5 lien or interest in the vehicle by some other person, the automotive recycler
6 shall cease dismantling or sale of the vehicle and any of its parts until the
7 rights of the other person are determined.

8 F. An owner may dismantle a vehicle without obtaining a dismantle
9 certificate of title if a nonrepairable vehicle certificate of title has been
10 issued for the vehicle.

11 G. THE DIRECTOR MAY ESTABLISH AN ELECTRONIC TITLE SYSTEM TO ALLOW THE
12 VOLUNTARY RECORDING OF THE INFORMATION OR DOCUMENTS REQUIRED BY THIS SECTION
13 THROUGH ELECTRONIC MEDIA IN A COST EFFECTIVE MANNER IN LIEU OF THE SUBMISSION
14 OF PAPER DOCUMENTS AS PROVIDED IN THIS SECTION. A VALID ELECTRONIC DISMANTLE
15 CERTIFICATE OF TITLE ISSUED BY THE DEPARTMENT TO A PERSON AUTHORIZES THE
16 PERSON TO POSSESS, TRANSPORT, DISMANTLE OR DESTROY THE VEHICLE.

17 H. IN THE PROCESS OF ESTABLISHING THE ELECTRONIC TITLE SYSTEM, THE
18 DIRECTOR SHALL:

19 1. RESEARCH METHODS BY WHICH THE DEPARTMENT AND LICENSED AUTOMOTIVE
20 RECYCLERS MAY EXCHANGE AND MAINTAIN INFORMATION CONCERNING THE ELECTRONIC
21 COMPLETION OF DISMANTLE CERTIFICATES OF TITLE WITHOUT SUBMITTING OR RECEIVING
22 A PAPER DOCUMENT.

23 2. DEVELOP METHODS BY WHICH LICENSED AUTOMOTIVE RECYCLERS MAY
24 ELECTRONICALLY SUBMIT UPDATED INFORMATION PERTAINING TO THE VEHICLE RECORD.

25 3. DEVELOP METHODS TO ELECTRONICALLY SHARE INFORMATION RELATED TO
26 APPLICATIONS FOR DISMANTLE CERTIFICATES WITH LAW ENFORCEMENT AGENCIES AND
27 LICENSED AUTOMOTIVE RECYCLERS FOR THE PURPOSE OF IDENTIFYING STOLEN VEHICLES
28 AND STOLEN VEHICLE PARTS.

29 I. THE DIRECTOR MAY LIMIT THE NUMBER OF LICENSED AUTOMOTIVE RECYCLERS
30 PARTICIPATING IN THE ELECTRONIC TITLE SYSTEM.

31 J. THE DIRECTOR MAY ADOPT RULES TO IMPLEMENT THIS SECTION.

32 ~~G.~~ K. This section does not apply to the removal of a part for the
33 purpose of replacement.

34 Sec. 3. Section 28-2133, Arizona Revised Statutes, is amended to read:

35 28-2133. Index and filing of liens, encumbrances or
36 instruments; constructive notice

37 A. The department shall maintain an appropriate index of all liens,
38 encumbrances or title retention instruments filed as provided by this
39 article.

40 B. The filing and issuance of a new certificate of title as provided
41 in this article is constructive notice to creditors of the owner or to
42 subsequent purchasers of all liens and encumbrances against the vehicle
43 described in the certificate of title, except those that are authorized by
44 law and that are dependent on possession. If the documents referred to in
45 this article are received and filed in a registering office of the department

1 within ~~ten~~ THIRTY days after the date of their execution, the constructive
2 notice dates from the time of execution. Otherwise, the notice dates from
3 the time of receipt and filing of the documents by the department as shown by
4 its endorsement.

5 C. The method provided in subsection B of this section for giving
6 constructive notice of a lien or encumbrance on a vehicle required to be
7 titled and registered under section 28-2153 or a mobile home required to be
8 titled under section 28-2063 is exclusive, except for liens dependent on
9 possession. A lien, encumbrance or title retention instrument or document
10 that evidences any of them and that is filed as provided by this article is
11 exempt from the provisions of law that otherwise require or relate to the
12 recording or filing of instruments creating or evidencing title retention or
13 other liens or encumbrances on vehicles of a type subject to registration
14 under this chapter.

15 Sec. 4. Section 28-6991, Arizona Revised Statutes, is amended to read:
16 28-6991. State highway fund; sources

17 A state highway fund is established that consists of:

18 1. Monies distributed from the Arizona highway user revenue fund
19 pursuant to chapter 18 of this title.

20 2. Monies appropriated by the legislature.

21 3. Monies received from donations for the construction, improvement or
22 maintenance of state highways or bridges. These monies shall be credited to
23 a special account and shall be spent only for the purpose indicated by the
24 donor.

25 4. Monies received from counties under cooperative agreements,
26 including proceeds from bond issues. The state treasurer shall deposit these
27 monies to the credit of the fund in a special account on delivery to the
28 treasurer of a concise written agreement between the department and the
29 county stating the purposes for which the monies are surrendered by the
30 county, and these monies shall be spent only as stated in the agreement.

31 5. Monies received from the United States under an act of Congress to
32 provide aid for the construction of rural post roads, but monies received on
33 projects for which the monies necessary to be provided by this state are
34 wholly derived from sources mentioned in paragraphs 2 and 3 of this section
35 shall be allotted by the department and deposited by the state treasurer in
36 the special account within the fund established for each project. On
37 completion of the project, on the satisfaction and discharge in full of all
38 obligations of any kind created and on request of the department, the
39 treasurer shall transfer the unexpended balance in the special account for
40 the project into the state highway fund, and the unexpended balance and any
41 further federal aid thereafter received on account of the project may be
42 spent under the general provisions of this title.

43 6. Monies in the custody of an officer or agent of this state from any
44 source that is to be used for the construction, improvement or maintenance of
45 state highways or bridges.

1 7. Monies deposited in the state general fund and arising from the
2 disposal of state personal property belonging to the department.

3 8. Receipts from the sale or disposal of any or all other property
4 held by the department and purchased with state highway monies.

5 9. Monies generated pursuant to section 28-410.

6 10. Monies distributed pursuant to section 28-5808, subsection B,
7 paragraph 2, subdivision (d).

8 11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.

9 12. Except as provided in section 28-5101, the following monies:

10 (a) Monies deposited pursuant to section 28-2206 and section 28-5808,
11 subsection B, paragraph 2, subdivision (e).

12 (b) One dollar of each registration fee and one dollar of each title
13 fee collected pursuant to section 28-2003.

14 (c) Two dollars of each late registration penalty collected by the
15 director pursuant to section 28-2162.

16 (d) The air quality compliance fee collected pursuant to section
17 49-542.

18 (e) The special plate administration fees collected pursuant to
19 sections 28-2404, 28-2412 through 28-2428 and 28-2514.

20 (f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156
21 if the director is the registering officer.

22 13. Monies deposited pursuant to chapter 5, article 5 of this title.

23 14. Donations received pursuant to section 28-2269.

24 15. Dealer and registration monies collected pursuant to section
25 28-4304.

26 16. Abandoned vehicle administration monies deposited pursuant to
27 section 28-4804.

28 17. Monies deposited pursuant to section 28-710, subsection D,
29 paragraph 2.

30 18. MONIES DEPOSITED PURSUANT TO SECTION 28-2065.

31 Sec. 5. Laws 2001, chapter 325, section 18 is amended to read:

32 Sec. 18. Delayed repeal

33 A. LAWS 2001, CHAPTER 325, section 17 ~~of this act~~, relating to
34 electronic certificates of title written report requirements, is repealed on
35 January 1, 2007.

36 B. ~~Section 28-2064, Arizona Revised Statutes, as added by this act, is~~
37 ~~repealed on January 1, 2009.~~

APPROVED BY THE GOVERNOR MAY 12, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2008.